

REMARKS

Regarding the Office Action of March 28, 2003, it is noted that a new ground of rejection has been asserted against claims 1, 2, 5, 6, 7, 10-12, 15-17 and 20. The Office Action of August 28, 2002 asserted a novelty rejection against the same claims based on U.S. Patent No. 6,405,045. In the Office Action mailed March 28, 2003, the previous novelty rejection of the same claims was withdrawn and a new rejection was asserted based on a different statutory ground, i.e., 35 U.S.C. § 103(a) based on U.S. Patent No. 6,463,286, against the same claims.

MPEP § 706.07(a) states that second actions on the merits shall be final, except where the Examiner introduces a new ground of rejection. Since the Examiner has introduced a new ground of rejection, it is believed that the finality of the Office Action is premature and withdrawal thereof is requested.

Regarding the obviousness rejection of claims 1, 2, 5, 6, 7, 10-12, 15-17, and 20 based on Salminen (U.S. 6,463,286), it should be pointed out that the presently claimed invention expressly claims that the first radio network controller signals the second radio network controller that a certain load condition exists using (a) a measurement report and, (b) a proposed action using an information element indicative thereof. It is true that the Salminen reference (U.S. 6,463,286) shows an exchange of signaling messages between first and second switching means MSC/VLR, MSC/VLR' in connection with the occurrence and detection of an overload condition by an overload detection means OTED in a GSM network. That is, a request means REQ is provided for sending to the second switching means MSC/VLR' of the second network VPLMN a request message RM requesting that one or more mobile stations MS of the first network HPLMN, which cannot be handled in the first network HPLMN due to the overload condition, be handled by the second network VPLMN. However, this does not

constitute a measurement report and, in addition, a proposed action using an information element indicative thereof.

The environment of the present invention is as shown in Figs. 1 and 2 of the present disclosure wherein radio network controllers 22, 24 are connected to each other by a standard interface (Iur).

In contrast to the GSM system shown by the Salminen reference, there is advantageously an Iur connection provided between the RNCs. This is because of the introduction of a new macrodiversity function where data is sent via multiple Node Bs to a user equipment (UE). Because signals are sent over multiple air interfaces between the same UE and several RNCs, the fading effect is less harmful and lower power levels can be used.

However, as explained in the present specification, in Release 99 of the 3GPP specification, there was no support provided for RNCs to share load information, i.e., between cells. This was not a problem because most manufacturers probably opted for a "one cell" approach to admission/congestion control.

As shown in Fig. 3 hereof, a 3GPP Release 4 work item was started to solve the problem and a common measurement procedure was proposed so as to allow a first RNC to request a neighboring, second RNC to report common measurements over the Iur. In the common measurement procedure proposed by the 3GPP, there are four common measurement types. The present invention improves the "load" type common measurement which suffers from a problem that was not recognized at the time the proposal was formulated that the generic values 0, 1, ..., 9 do not mean anything in a multi-vendor environment where an operator of a core network can purchase RNCs from different vendors and these different vendors have different interpretations of what these generic values mean.

Instead of making an operator of a core network use RNCs from the same vendor, the present invention makes it possible to

use RNCs from different vendors by providing an additional information element (IE) which allows the first RNC to suggest a possible reaction for the second, receiving RNC. In other words, the IE is used as a flag to signal a meaning in parallel with the generic load parameter.

This is already claimed in the independent claims and the only thing that has been changed in the above amendment is to emphasize the environment within which the present invention operates.

The portion of the Salminen reference at column 16, lines 19-45 pertain to a situation where the VPLMN network has already accepted some mobile stations from the HPLMN network due to an overload and then was to switch those mobile stations back to HPLMN. The Examiner is referred instead to the description of Fig. 2 beginning at column 10, lines 48-58 and column 8, lines 51-60 for the nature of the request message RM and column 9, lines 19-28 for the nature of the response RPM message for a more detailed description of a similar process, already discussed above.

Withdrawal under 35 U.S.C. § 103(a) rejection of claims 1, 2, 5, 6, 7, 10-12, 15-17, 20 is requested.

Regarding the obviousness rejection of claims 3, 4, 8, 9, 13, 14, 18, 19, these depend from the independent claims 1 and 11

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and are also patentable over Salminen in view of Frodigh et al at least for the reasons given above. Withdrawal of the obviousness rejection is requested.

Respectfully submitted,



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